

FRANKFORT ARCHITECTURAL REVIEW APPEALS BOARD

November 17, 2004

5:30 P.M.

CHAIRMAN DAVID GARNETT, PRESIDING

Newly appointed Chairman Garnett called the meeting to order. Recording Secretary Dianna Rogers called the roll.

MEMBERS PRESENT:	Marshall Flynn	
	Sherron Jackson	
	Carlos Pugh	
	David Garnett	(4)

MEMBER ABSENT:	Dwayne Cook	(1)
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There being a quorum, the meeting proceeded.

The first item of business was to elect a Chairman. A motion was made by Mr. Jackson to elect David Garnett Chairman. The motion was seconded by Mr. Pugh and carried unanimously. Chairman Garnett stated this was the first time this Board had met.

The only item of business on the agenda was a request in accordance with Article 17, Section 17.09 of the Frankfort Zoning Ordinance, by Square N. Williams, III, of Hazelrigg & Cox, LLP, on behalf of Harrod Brothers Funeral Home, for an appeal that the Architectural Review Appeals Board overturn the action taken by the Architectural Review Board for property located at 312 Washington Street.

Mr. Edwin Logan, Board Attorney, stated this is an appeal based on record of appeal and it is a public hearing. He stated you can discuss what is in the record and there can be no new testimony. He stated it is based on whether an arbitrary or capricious action took place by the Architectural Review Board (ARB). Mr. Logan added the Board has sixty (60) days from tonight to render a decision.

Mr. Will Williams, Attorney, Hazelrigg/Cox, was present for Harrod Brothers Funeral Home. He stated they filed an appeal as they felt the ARB had decided wrongly. He stated the structure in question was an outbuilding behind the funeral home referred to as the Carriage House. He stated the structure had been there since the 1800's and was used as a carriage house. Mr. Williams stated there is no street frontage to the property and want to demolish it because in its current condition it cannot be used and is in threat of collapsing. Mr. Williams stated they had structural engineer at the September 21, 2004 ARB meeting who testified to that effect.

Mr. Williams read into the record a memorandum from Robert Engle, Building Inspector, City of Frankfort, that read "I did an inspection on this property this morning and just wanted to pass along my thoughts. From a Building Inspector's view, the best thing for this property would be for it to be demolished. The structural parts of the building are in awful shape, from being deteriorated to being bowed in several places on the supporting walls. It would take more to fix the structure and bring it up to the current building code than it would be worth."

Mr. Williams stated the foundation of the building had failed and added that the building can't remain as it is standing now. Mr. Williams stated the building can't be repaired or shored up because the foundation is the problem. He added that the architect and structural engineer they had at the ARB meeting submitted a cost of \$341,994 to bring the building up to code. He stated the building next door sold for \$290,000 and it had its own lot.

Mr. Williams stated there are some significant architectural features such as the cupola, fish scale siding and carved woodwork but they would all have to be replaced and can't be used in their current state because they are too deteriorated. Mr. Williams stated the building has to be demolished to make it structurally sound and if the property owners are not granted demolition approval they will have to rebuild and that would be an unreasonable burden. Mr. Pugh asked if \$10,000 to

\$12,000 was the estimate to demolish. Mr. Williams stated it was. Mr. Garnett stated the applicant was cited for a hole in the roof and asked if the code violation notice came before the ARB appearance. Mr. Williams stated he contacted Mr. Hewitt and Mr. Stapleton to look at the building to see if it could be demolished without ARB approval and between the time they met and when they turned in a written request the violation notice as issued. Mr. Williams stated the hole has been repaired.

Mr. Robert Hewitt, Senior Planner, stated he repaired the report of the September 21, 2004 ARB meeting. He stated there was discussion at that meeting by the Board that there was basic neglect of the structure. He stated he had found that the structure possessed architectural features and it was a contributing fabric to the overall character of the area. Mr. Hewitt stated he did not recall discussion of the building being demolished to repair the foundation. He added that the code violation notice was cited on June 14, 2004 and they filed for ARB approval on July 22, 2004.

Mr. Jackson asked if the building inspector's opinion was an official opinion. Mr. Hewitt stated it was a professional opinion based on the inspector's expertise of the building codes. Mr. Pugh asked if in making his decision did Mr. Hewitt take into account Mr. Jim Sewell's appraisal opinion. Mr. Hewitt stated he did consider it but he did not agree with all of it. Mr. Logan called for a point of order and stated Mr. Hewitt could not testify about the content of the document.

Mr. Garnett asked if Mr. Engle's opinion was the opinion of the Department. Mr. Hewitt stated he did not know that because he did not know if Mr. Engle had talked to the Director of the Department. Mr. Garnett asked whose recommendation it was to deny the applicant's request. Mr. Hewitt stated it was his. Mr. Garnett asked why Mr. Hewitt's opinion carried more weight than Mr. Engle's. Mr. Hewitt stated they came from different points of view and that his findings came from research of the code and that the structural integrity was not the most significant factor in the historic district.

Mr. Garnett asked Mr. Hewitt if it was in the code of Article 17 that neglect could be a factor to the ARB. Mr. Hewitt stated no but he would like to have a minute to review the code for that. Mr. Jackson asked Mr. Hewitt if Mr. Engle gave him the criteria he used to arrive at his decision. Mr. Hewitt stated no. Mr. Garnett stated Mr. Williams appeal document stated on page 6 that the Office of Building Codes agreed with the applicant that the building should be demolished. Mr. Garnett asked if there was more testimony than Mr. Engle's that the building code office took a position. Mr. Hewitt stated no other than his staff report.

Mr. Jackson stated a different structure on the property, the Thomas House, existed on the National Register of Historic Places but did not mention the Carriage House. Mr. Hewitt stated his information came from the historic inventory sheets done from the 1990s. Mr. Hewitt stated he felt Planning & Zoning files were incomplete and some were since found in the attic and were being researched. He stated other information had come from the Sanborn Maps.

Mr. Hewitt stated failure on the property owner to maintain a structure by neglect was not a way in which the City wished to see buildings removed and that was one of the reasons for establishing the ARB.

Mr. Williams stated the reference on page six of his appeal document referred to Mr. Engle's e-mail and he did not mean for it to apply to the Department. Mr. Williams stated he did not feel Mr. Hewitt had addressed the question straight on about the ARB having authority to consider factors contributing to dilapidated states. He stated he could not find anything in the code and felt this was improper consideration.

Mr. Garnett stated he wanted memorandums from the petitioner and respondent within fifteen days and then schedule a meeting regarding a decision on this matter.

Mr. Jackson asked if the financial aspect of this could be considered. Mr. Garnett stated section 4.408 of the codes addressed cost and it can be a consideration. Chairman Garnett declared the meeting adjourned.